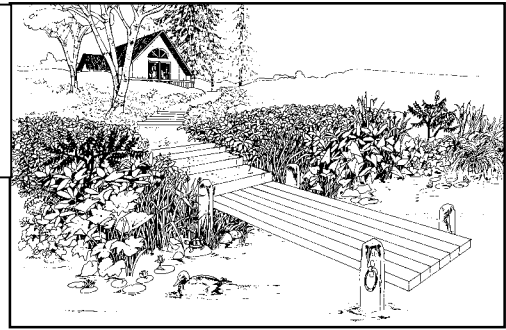


Proposed Revisions to NR 326

Piers, Boat Shelters, Swim Rafts

Public Hearing Factsheet



Summary of Rule Proposal

A Citizen Stakeholder Group has developed proposed revisions to NR 326, the state's rules related to piers, boat shelters and swimming rafts in navigable waters. DNR convened the group to evaluate an initial NR 326 proposal, and to suggest changes and improvements. The group's goals are to develop a rule that's easy to understand and administer, and that protects aquatic habitat and natural scenic beauty. The Stakeholder Group's proposal, supported by DNR, includes:

- Exemptions from permitting for most piers, boat shelters and swimming rafts
- General Permits to "grandfather" preexisting piers, and allow permanent boat shelters and other piers through a quick one-time approval
- Individual Permits for projects with greater complexity or in sensitive habitat

The group also proposes changes and improvements to the rule's Purpose, Definitions and Enforcement sections. The Stakeholder Group and DNR are seeking your input on this proposal.

Why is this an issue for our waters?

Piers, boat shelters and similar structures are located in the shallow waters that are critical habitat on our lakes and rivers. Research in Wisconsin and elsewhere shows that the growing size and number of piers and boats are shading out plants that provide habitat for insects and small fish. These impacts in turn affect the food supply and habitat for game fish. Piers and similar structures are also very visible to folks who are boating and fishing on waterways. Any rules about these structures need to provide common-sense standards that are easy to follow, but also ensure protection of the water's edge - the natural features, fish and wildlife, clean water, and safe navigation that we all enjoy.

Regulations Yesterday ...

In 1933, state law prohibited piers and other structures in navigable waters due to navigational concerns. In 1949, a law that is now part of chapter 30, Wisconsin Statutes, allowed property owners to apply for a permit to construct a pier or similar structure. Over the years other statute changes were made, and NR 326, Wisconsin Administrative Code, was adopted in 1981 as the rule related to piers, boat shelters and swimming rafts. Currently under NR 326, most piers and seasonal boat shelters do not need a DNR permit. A DNR brochure called "Pier Planner" helps waterfront property



owners design projects to protect the fish and wildlife habitat, water quality and natural beauty - and avoid the need for a permit.

... and Today

Act 118, a new law that went into effect in February 2004, changed the regulations for piers and similar structures in chapter 30, Stats. Act 118 created new exemptions from permitting for a pier, wharf, or seasonal boat shelter. The statutory standards for a pier are the same dimensions that many are familiar with from the "Pier Planner". Revisions to NR 326 are needed to implement the new law, and establish detailed standards and procedures for exemptions, general permits and individual permits.

Pier and Wharf Exemption

Under the Stakeholder Group's proposal, you won't need a permit for a pier or wharf if it meets these requirements:

- **Length** – A pier or wharf may extend to the “line of navigation” – the 3-foot water depth, the length needed to adequately moor your boat, or the local pierhead line if there is one. A pier can only go out 25% of the width of a river or stream.
- **Width** – A pier or wharf can be up to the statutory width of 6-feet; and include one wider loading platform at the lakeward end of a pier up to 120 square feet in size.
- **Boat slips** - The property may have up to 2 boat slips for less than 50 feet of shoreline footage, 3 boat slips for the first full 50 feet, and one more boat slip for each additional full 50 feet of shoreline footage. A boat shelter, boat hoist or boat lift may be placed as a boat slip.
- **Riparian zone** – The pier, wharf and any boats, shelters, etc. need to be in your riparian zone.
- **Accessories** – A pier or wharf may have navigational accessories like benches, tables, flagpoles, or a slide, but no roof, canopy, second story or buildings on it.
- **Not a solid pier or on rock-filled cribs** or similar foundation
- **Not enclose or block flow** - A pier or wharf may not totally enclose any portion of the waterway, interrupt free movement of water, or cause plant material to be trapped underneath.
- **Anchored on rivers and streams** - A pier or wharf on a river or stream needs to be securely anchored to the shoreline to prevent it from becoming a floating hazard.

Projects fall into one of 3 categories for DNR review and permitting...

Exemptions

The “do-it-yourself” category, with no need to contact DNR or pay a fee. A project that meets all the exemption standards can be placed without a permit.

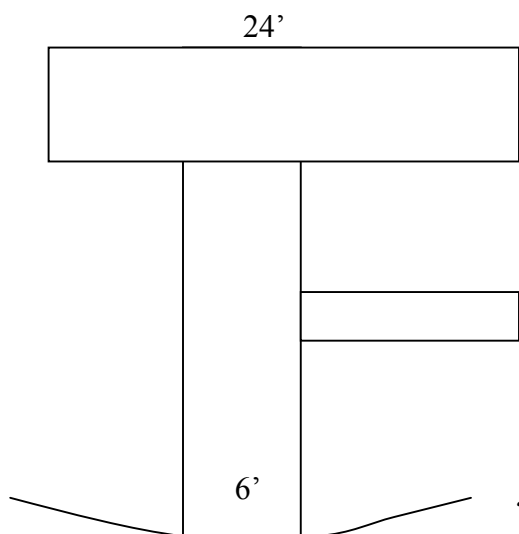
General Permits - “GP”

For projects that are not exempt, but can be approved through a quick one-time process. Submit an application and small fee with information to show that your project meets the GP standards, and you'll usually receive a permit within 30 days.

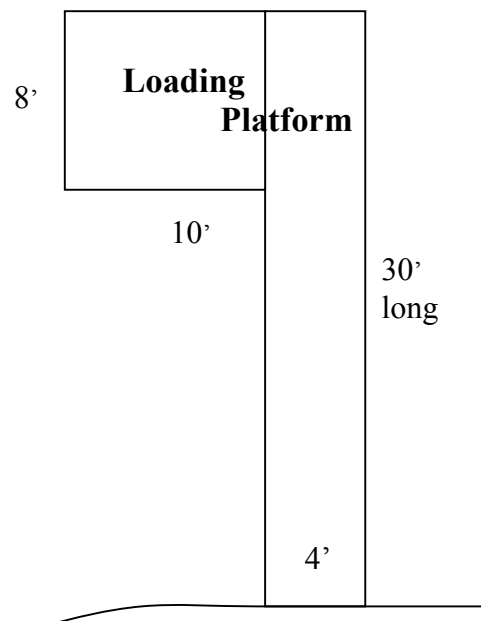
Individual Permits - “IP”

For projects that are more complex, located in critical habitat or don't qualify for an exemption or GP. Project flexibility is allowed for specific purposes, but permit review involve greater scrutiny, a higher fee, and a public notice.

Piers and wharves always need to comply with local ordinance requirements, and only a riparian (waterfront property owner) or a qualified easement holder has the right to place a pier or wharf. You can hire a contractor to install or remove your pier of course.



A new pier and wharf, defined as anything placed after April 18, 2004, will not be exempt if it will be in a trout stream or other sensitive waterway identified in the new law. These “areas of special natural resource interest” or “public rights features” are specially-designated waters under new rules.



Typical dimensions for Exempt piers

“Grandfathering” General Permit for Preexisting Piers and Wharves

For preexisting piers that don’t meet the new statutory or rule requirements to be exempt from permitting, the stakeholder group proposes to “grandfather” preexisting piers through a General Permit, which provides a quick one-time approval process for most non-exempt piers. An 18-month grace period allows time to file a permit application, with no double-fee as usually required for after-the-fact projects. For this GP, a preexisting pier or wharf must meet a few requirements:

- Preexisting – The pier or wharf must have been originally placed before January 1, 1998, and placed at least 5 of the 6 years thereafter.
- No changes – No expansion or relocation of the pier or wharf after January 1, 1998.
- Not harm neighbors - the pier or wharf and any boats/accessories must be within the riparian zone
- Width - The pier or wharf may be up to 6-feet wide; one wider loading platform at the lakeward end of a pier can be up to 200 square feet in size.
- Not a solid pier or on rock-filled cribs or similar foundation

A pier or wharf cannot qualify for this “grandfathering” General Permit if it’s been the subject of an enforcement action, unresolved complaint or notification that the pier or wharf is potentially harmful to the public interest in the waterway.

Other General Permits for Piers and Wharves

The Stakeholder Group proposes two additional General Permits:

1. Piers on rock-filled cribs in Lake Geneva, Walworth County
These cribs are commonly used on Lake Geneva, to provide stability for piers in a deep lake with a hard bottom that doesn’t support other types of pier designs. Pier cribs have always required a permit; under the proposal, they can be authorized under a simple general permit – with no public notice – if they meet most exemption standards, and don’t exceed an 8-foot width.
2. Pier or Wharf in an Area of Special Natural Resource Interest
This proposal allows a new pier or wharf – placed after April 18, 2004 – which will be located in a specially-designated water to qualify for a simple general permit, as long as they meet all the other exemption standards.

Individual Permits for Piers and Wharves

Individual Permits are available for more complex projects or activities in locations of critical habitat. Specific standards and factors provide flexibility, but the permit review involves a higher level of project scrutiny. The Stakeholder Group developed detailed requirements or factors for consideration in permit evaluation, for several individual permit categories (see the rule text for details):

- Solid Piers – only on the Great Lakes
- Rock-filled Cribs – For preexisting piers, or new piers only on Lake Geneva or the Great Lakes
- Commercial and Municipal Marinas – These facilities must be “open-to-the-general-public” and follow detailed design considerations. Flexibility is provided for more boat slips, and for larger structures that are part of the marina facility, such as fuel platforms or areas for safety.
- Piers in a location of Public Rights Features – In these areas of critical habitat, projects need detailed review to assess impacts, and may have to be reduced in scale to avoid harm.
- Other Piers and Wharves – This individual permit is available for proposals that don’t fit any other exemption, general permit or individual permit category. To exceed the exemption standards, an applicant will need to show they have a preexisting facility, or that some navigational need or disability requires different dimensions or design.



Exemption for Seasonal Boat Shelter, Boat Lift or Boat Hoist

The Stakeholder Group proposes that seasonal boat shelters, lifts and hoists - removed from the water between November 1 and April 1 each year - be exempt if they meet these requirements:

- Placed adjacent to a pier, wharf or shoreline, entirely within riparian zone
- Maximum size 12-feet by 24-feet on waters under 1000 acres, 14-feet by 24-feet long on larger waters; each designed for one watercraft; allowed out to the line of navigation.
- A boat shelter may include a roof or canopy, and up to a 24-inch valance, but no walls or sides.
- A boat shelter roof needs to be pitched between 1 foot and 2.5 feet from peak to bottom of eaves. Vertical components only allowed to support the boat and roof; storage only above the eaves.
- A boat shelter may include a single sign to identify the property and lighting for safety.
- Permanent and seasonal boat shelters shall be placed as close together as practicable
- Boat shelter, hoist or lift must allow free movement of water underneath
- Not exempt if located in a “public rights feature” or a state or federal wild or scenic river

As with piers, these structures need to comply with local ordinances, and only a riparian or qualified easement holder has the right to place them.

General Permit for Permanent Boat Shelters

Permanent Boat Shelters have always required a permit, and existing NR 326 contains specific standards including that they are only allowed on certain larger waterways. The Stakeholder Group has developed a simpler General Permit. They recommend the same waterway limitations, and several revised standards to be consistent with the length allowed for piers. Permanent boat shelters are only allowed on “developed shorelines”, which is proposed as a more objective standard of 5 residential principal structures within 500 feet of the shelter.



Exemption for Swimming Rafts

Swimming rafts, which also includes water trampolines, can continue to be exempt from permitting under the Stakeholder Group’s proposal. They recommend retaining all the exemption standards in existing NR 326, meaning that rafts can be up to 200 square feet (15-foot diameter) and 38-inches high, unless they are brought in from the water each night or located in a designated swimming area. They also propose that a swimming raft be set back at least 10 feet from other in-water structures.

Open House and Public Hearing Schedule

Public Comments on the Stakeholder Group’s proposal are welcome, and are accepted through December 1, 2004. An Open House and Public Hearing will be held at six locations around the state, between November 1 and November 10. Stakeholder Group members and DNR staff will be on hand to answer questions and listen to feedback. For dates, times and specific locations, see our website at www.dnr.wi.gov, and go to the topic “Waterway and Wetland Permits”, then “Public Hearings.”

What do YOU think?

We want your ideas and input on the proposed rule revisions. Participate in one of several ways:

- **Fill out a questionnaire** at an Open House or **testify** at a public hearing
- Send a **comment over the internet** at <http://adminrules.wisconsin.gov>
- **Mail written comments** to Liesa Lehmann, DNR-FH/3, P.O. Box 7921, Madison, WI, 53707

Written, oral and internet comments all have the same weight.

Comments accepted through December 1, 2004